

FILED

8/31/2020

Clerk, U.S. District Court
District of Montana
Billings Division

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

SERGIO VALDEZ-SALAS,

Plaintiff,

V.

FEDEX (THANE JOHNSON),

Defendant.

No. CV-20-134-BLG-SPW-KLD

NOTICE OF REMOVAL

COMES NOW Defendant Federal Express Corporation (“FedEx”), pursuant to 28 U.S.C. §§ 1331, 1332, 1441 and 1446 as well as Rule 3.3 of the Local Rules of the United States District Court for the District of Montana, and hereby removes this action, Docket No. DV-20-1036, from the Thirteenth Judicial District Court of Yellowstone County, Montana to the United States District Court for the District of Montana, Billings Division, stating as follows:

THE PROCEDURAL REQUIREMENTS FOR REMOVAL HAVE BEEN SATISFIED.

1. On or about August 10, 2020, *Pro se* Plaintiff Sergio Valdez-Salas (“Plaintiff”) commenced this action by filing his Complaint in the Thirteenth Judicial District Court of Yellowstone, County, Montana under Docket No. DV-20-1036 (the “State Action”).

2. FedEx was served with the summons and a copy of the State Action on August 11, 2020.

3. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served on FedEx are attached hereto as **Exhibit A**.

4. FedEx is filing this Notice of Removal within 30 days after initial receipt of the summons and pleadings.

5. Pursuant to 28 U.S.C. § 1446(a), the United States District Court for the District of Montana, Billings Division, is the proper district and division in which to file this removal because the State Action was filed in Yellowstone County, Montana. *See* 28 U.S.C. § 106.

6. Pursuant to 28 U.S.C. § 1446(d), FedEx is filing a Notice of Filing the Notice of Removal with the Clerk of the Thirteenth Judicial District Court of Yellowstone County, Montana contemporaneously with the filing of said Notice of Removal in this Court, giving notice to all

parties and the State Court. A copy of the Notice of Filing the Notice of Removal (without its exhibits) is attached hereto as **Exhibit B**.

THE COURT HAS ORIGINAL JURISDICTION OVER THIS MATTER PURSUANT TO 28 U.S.C. § 1331.

7. This Court has federal question jurisdiction in this matter pursuant to 28 U.S.C. § 1331 because Plaintiff purports to bring claims under the Americans with Disabilities Act (“ADA”), a federal statute. *See Exhibit A*, Plaintiff’s Complaint, ¶ 3.

8. Section 1331 states “[t]he district courts shall have original jurisdiction of all civil actions arising under the...laws...of the United States.”

THE COURT ALSO HAS DIVERSITY JURISDICTION OVER THIS MATTER PURSUANT TO 28 U.S.C. §§ 1332 AND 1441.

9. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because this is a civil action between citizens of different states in which the amount in controversy exceeds the sum of \$75,000.00, exclusive of interests and costs.

10. Pursuant to 28 U.S.C. § 1446(c)(2)(B), a case may be removed to federal court on the basis of diversity jurisdiction if the Court finds, by

the preponderance of the evidence, that the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

11. In his Complaint, Plaintiff seeks judgment in the amount of “25 million dollars for pain [and] suffering on a discrimination case.”

12. Because the amount in controversy clearly exceeds \$75,000.00, 28 U.S.C. § 1332(a)’s requirement is satisfied.

Citizenship of Defendant

12. As a corporation, FedEx’s citizenship is determined by its state of incorporation and its principal place of business. *Americold Realty Trust v. Conagra Foods, Inc.*, 136 S.Ct. 1012, 1015 (2016). Defendant is a for-profit corporation formed in Delaware and with its principal place of business located in Tennessee.

Citizenship of Plaintiff

18. As set forth in his Complaint, Plaintiff was, at the time of the filing of the State Action, and still is domiciled in, and a citizen of, Montana. See **Exhibit A**, Plaintiff’s Complaint.

19. Accordingly, there is complete diversity of citizenship between Plaintiff and FedEx, the amount in controversy satisfies the jurisdictional minimum, and FedEx is filing this Notice of Removal

within the time allowed under 28 U.S.C. § 1446(b). For the foregoing reasons, this Court has jurisdiction pursuant to 28 U.S.C. § 1332.

WHEREFORE, PREMISES CONSIDERED, Defendant requests that this action proceed in this Court as an action properly removed to it pursuant to 28 U.S.C. §§ 1331, 1332, 1441, and 1446.

Respectfully submitted,

/s/ Adrianna Potts

Adrianna Potts

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Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on August 31st, 2020, a copy of the foregoing was served on the parties listed below via U.S. Mail, postage pre-paid:

Sergio Valdez-Salas
P.O. Box 22722
Billings, Montana 59101

Plaintiff pro se

/s/ Adrianna Potts